

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Robert E. Perdue,	:	Case No. 1:14-cv-084
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
Ohio Department of Corrections, et al,	:	
	:	
Defendants.	:	

ORDER

Before the Court are Plaintiff's Objections to the Magistrate Judge's Report and Recommendation. Plaintiff, an inmate at the Southern Ohio Correctional Facility, is proceeding pro se in this case. The Report at issue (Doc. 12) reviews Plaintiff's complaint under 28 U.S.C. § 1915, and recommends that his Eighth Amendment claim of deliberate indifference to his medical needs against Doctor Ahmed and B. Goodman, a member of the SOCF Mental Health Department, proceed. It also recommends that the claim against Christine Massey, another inmate, should be dismissed and his request for a preliminary injunction should be denied. The Court accepts the Report and Recommendation, and will overrule Plaintiff's objections.

Plaintiff's objections are somewhat difficult to decipher; broadly construed, the Court understands him to object to the conclusion that he has sought to add a claim against B. Goodman or against inmate Christine Massey to this action. He notes that in another pending case (see 1:13-cv-0878, Perdue v. Ohio Dept. Of Corrections, et al, which was transferred from the Eastern District, where it was denominated as Case No. 2:13-cv-1195), the Court dismissed all claims against his fellow inmates for failure to

state a claim under 42 U.S.C. § 1983. He suggests that the Court was wrong to conclude that he is alleging claims against Massey in this case. The Court notes that Plaintiff's complaint alleges that Massey threatened him and tried to carry out a "hit" on Plaintiff, and he refers to Massey as a "defendant." (See Doc. 1, pp. 14-16.) But if Plaintiff does not wish to bring claims against Massey, then there is no harm or prejudice in the Magistrate Judge's recommendation that those claims be dismissed.

Plaintiff also seems to suggest that he "never mentioned" bringing claims against B. Goodman, a staff member at the SOCF Mental Health Department. The Court notes that in his motion to amend which is dated January 30, 2014 (see Doc. 8), Plaintiff specifically alleges that B. Goodman should be added as an individual defendant; she is alleged to be the Mental Health Acting Supervisor, and liable for the failure to provide Plaintiff sufficient access to mental health services. The Magistrate Judge has ordered that a summons be served upon B. Goodman. If Plaintiff does not wish to proceed with claims against B. Goodman, he may file a motion to dismiss.

Plaintiff further objects because his case should proceed to discovery and trial. The Court is permitting Plaintiff to do just that on his Eighth Amendment claims against Dr. Ahmed and B. Goodman, once those Defendants are properly served with process. He apparently objects to the Magistrate Judge's recommendation that his request for a preliminary injunction be denied. But he does not suggest any factual or legal basis for that objection. He argues that he filed both of his complaints (the case pending before Judge Barrett based on failure to provide adequate safe housing and bringing claims against individual corrections officers, and this case alleging inadequate medical care) in an attempt to stop civil rights violations and the use of force. Plaintiff will have the

opportunity to prove his claims, as both cases are proceeding and service on defendants has been ordered. But his allegations do not entitle him to an injunction or a temporary restraining order at this time. As the Magistrate Judge correctly noted, if he succeeds on the merits of any of his claims, equitable relief is available to correct actionable deficiencies in the conditions of his imprisonment.

The Court has conducted a de novo review of the record, pursuant to 28 U.S.C. §636(b) and Federal Rule of Civil Procedure 72(b). The Court finds that Plaintiff's objections to the Magistrate Judge's Report and Recommendation (Doc. 12) are not well taken, and his objections are therefore overruled. The Court adopts the Report and Recommendations of the Magistrate Judge in full.

SO ORDERED.

DATED: April 28, 2014

s/Sandra S. Beckwith
Sandra S. Beckwith, Senior Judge
United States District Court